

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JEAN HANLON,

Plaintiff,

v.

5:07-CV-0747
(FJS/GHL)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

AMDURSKY, PELKY, FENNELL & WALLEN, PC
Counsel for Plaintiff
26 East Oneida Street
Oswego, New York 13126

GREGORY R. GILBERT, ESQ.

GEORGE H. LOWE, United States Magistrate Judge

ORDER TO SHOW CAUSE

On July 18, 2007, Plaintiff filed this action for Social Security benefits. (Dkt. No. 1.) On July 19, 2007, a Summons was issued. (Dkt. No. 3.) However, to date, Defendant has not been served with the Summons and Complaint.

Under the Federal Rules of Civil Procedure, a defendant must be served with the summons and complaint within **120 days** after the filing of the complaint. Fed. R. Civ. P. 4(m). This 120-day service period is shortened, or “expedited,” by the Court’s Local Rules of Practice (and the Court’s General Order 25), which provide that all defendants must be served with the summons and complaint within **sixty (60) days** of the filing of the complaint. N.D.N.Y. L.R. 4.1(b) [emphasis added]. Here, more than 120 days have elapsed since the filing of the Complaint and Defendant has not been served. As a result, Plaintiff is currently in violation of

both the Federal Rules of Civil Procedure and the Local Rules of Practice for this Court.


The Federal Rules of Civil Procedure provide that, if defendants are not served within the required time limit, a court may, on its own initiative, grant the plaintiff an extension of time by which to effect service. Fed. R. Civ. P. 4(m). I find that a thirty-day extension is appropriate.

Plaintiff is cautioned that no further such extensions will be granted. Plaintiff is also reminded of the duty to diligently prosecute this action under Rule 41(b) of the Federal Rules of Civil Procedure, and Local Rule 41.2(a) of the Local Rules of Practice for this Court.

ACCORDINGLY, it is

ORDERED that, within **THIRTY (30) DAYS** of the date of this Order, Plaintiff shall either (1) serve Defendant with the Summons and Complaint or (2) show cause why the undersigned should not recommend that the Complaint be **DISMISSED**.

Dated: December 11, 2007
Syracuse, New York


George H. Lowe
United States Magistrate Judge